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7 THE COCA-COLA COMPANY

8 UNITED STATES DISTRICT COURT
9
10 EASTERN DISTRICT OF CALIFORNIA

11 DARRENN GONZALEZ, on behalf of
12 himself and all others similarly situated,

13 Plaintiff,

14 vs.

15 THE COCA-COLA COMPANY,

16 Defendant.

Case No. 2:12-cv-00695-GEB-EFB

**STIPULATED REQUEST TO STAY
ACTION; ORDER**

Judge: Hon. Garland E. Burrell, Jr.

Complaint Filed: March 19, 2012
Trial Date: None Set

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18 Plaintiff Darrenn Gonzalez ("Plaintiff") and Defendant The Coca-Cola Company
19 ("Defendant") (collectively referred to as the "Parties") through their respective counsel hereby
20 stipulate as follows:

21 WHEREAS, Plaintiff served the Complaint in this action on March 26, 2012;

22 WHEREAS, Defendant's initial response to the Complaint is due on April 16, 2012;

23 WHEREAS, five cases substantially identical to this one are pending against Defendant in
24 judicial districts around the country:

- 25 • *Davis v. The Coca-Cola Co.*, Civ. Action No. 12-cv-02391 (N.D. Ill.), filed on
26 March 30, 2012;
- 27 • *Veal v. Simply Orange Juice Company*, Civ. Action No. 2:12-cv-00803-TMP

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STIPULATED REQUEST TO STAY ACTION; ORDER
(Case No. 2:12-cv-00695-GEB-EFB)

(N.D. Ala.), filed on March 13, 2012;

- *Wieczorek v. The Coca-Cola Co.*, Civ. Action No. 4:12-cv-00308-FJG (W.D. Mo.), filed on March 10, 2012;
- *Yee v. Simply Orange Juice Co.*, Civ. Action No. 3:12-cv-01170-MEJ (N.D. Cal.), filed on March 8, 2012; and
- *Veal v. The Minute Maid Co., a division of The Coca-Cola Co.*, Civ. Action No. 2:12-cv-00802-IPG (N.D. Ala.), filed on March 13, 2012;

WHEREAS, the core allegation in each of these cases is the same: plaintiffs all assert that Defendant's statements that its Simply Orange® and/or Minute Maid® orange juices are "100% pure" and "natural" are false because the juice is pasteurized and "processed";

WHEREAS, on March 15, 2012, the plaintiff in the *Wieczorek* case filed a motion before the Judicial Panel on Multidistrict Litigation (the "MDL Panel") to transfer the actions against Defendant to the Western District of Missouri for coordinated pre-trial proceedings pursuant to 28 U.S.C. § 1407;

WHEREAS, on April 5, 2012, Defendant filed a brief in support of the *Wieczorek* plaintiff's request for consolidation, but recommended that the MDL Panel transfer these cases to Judge James B. Zagel in the Northern District of Illinois;

WHEREAS, given the substantial overlap between this case and the other related actions against Defendant, the MDL Panel may transfer this case to a different court for coordinated pre-trial proceedings;

WHEREAS, to conserve the resources of the Court and the Parties, the Parties agree that it is appropriate to stay this action until the MDL Panel rules on the pending motion for transfer and consolidation;

WHEREAS, there is good cause to stay these proceedings because, absent a stay, Defendant could suffer a clear hardship by having to defend the same issues in multiple fora and the Court may expend unnecessary resources on this case, only to see it transferred to another court; and

1 WHEREAS, the Parties do not anticipate that the requested stay would be overly lengthy
2 given that briefing on the transfer motion is almost completed and the MDL Panel is likely to rule
3 on the motion shortly after its May 31, 2012 session in Washington, D.C.;

4 WHEREAS, district courts have already entered stay orders in two of the related actions
5 against Defendant pending a ruling by the MDL Panel (*see Veal v. The Minute Maid Co.*, No.
6 2:12-cv-802 (N.D. Ala. Apr. 9, 2010) (Johnson, J.) (Dkt. #5); *Veal v. Simply Orange Juice Co.*,
7 No. 2:12-cv-803 (N.D. Ala. Apr. 9, 2010) (Putnam, M.J.) (Dkt. #5));

8 WHEREAS, this Court has inherent power to stay proceedings in order to “control the
9 disposition of the causes on its docket with economy of time and effort for itself, for counsel, and
10 for litigants,” *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936);

11 WHEREAS, district courts routinely stay cases pending the MDL Panel’s decision on a
12 motion for transfer in order to avoid the necessity of pretrial litigation that they may never have
13 to oversee if the transfer motion is granted. *See Rivers v. Walt Disney Co.*, 980 F. Supp. 1358,
14 1362 (C.D. Cal. 1997) (it is “appropriate to stay preliminary pretrial proceedings while a motion
15 to transfer and consolidate is pending with the MDL Panel because of the judicial resources that
16 are conserved”); *see also Good v. Prudential Ins. Co. of Am.*, 5 F. Supp. 2d 804, 809 (N.D. Cal.
17 1998) (stays pending an MDL Panel ruling are “frequently” granted);

18 NOW, THEREFORE, IT IS HEREBY STIPULATED and requested by the Parties
19 through their respective attorneys of record that all proceedings, deadlines and discovery in this
20 action be stayed until thirty (30) days after the MDL Panel rules on the currently pending motion
21 for transfer and consolidation captioned *In re: Simply Orange Orange Juice Marketing and Sales*
22 *Practices Litigation* (MDL No. 2361).

23 DATED: April 13, 2012

BURSOR & FISHER, P.A.

24 /s/ Sarah N. Westcot
25 SARAH N. WESTCOT
26 Attorneys for Plaintiff
27 DARRENN GONZALEZ
28

1 DATED: April 13, 2012

LAFAYETTE & KUMAGAI LLP

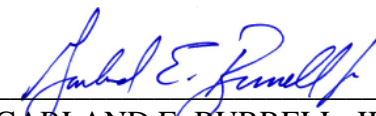
2 /s/ Gary T. Lafayette
3 GARY T. LAFAYETTE
4 Attorneys for Defendant
5 THE COCA-COLA COMPANY

6 **ORDER**

7 Good cause appearing therefor and pursuant to the Parties' stipulation, it is hereby
8 ORDERED that all proceedings, deadlines and discovery in this action be stayed until thirty (30)
9 days after the MDL Panel rules on the currently pending petition captioned *In re: Simply Orange*
10 *Orange Juice Marketing and Sales Practices Litigation* (MDL No. 2361).

11 PURSUANT TO STIPULATION, IT IS SO ORDERED.

12 **Date: 4/13/2012**

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14 GARLAND E. BURRELL, JR.
15 United States District Judge
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